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PATENT APPLICATION

ATTORNEY DOCKET NO. 200310177-1

IN THE
UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor(s): Seiw-Hong YANG-HUFFMAN et al.

Confirmation No.: 5395

Application No.: 10/649,303

Examiner: Kristie D. SHINGLES

Filing Date: August 27, 2003

Group Art Unit: 2441

Title: SYSTEM AND METHOD OF NETWORK FAULT MONITORING

Mail Stop Appeal Brief - Patents
Commissioner For Patents
PO Box 1450
Alexandria, VA 22313-1450

TRANSMITTAL OF REPLY BRIEF

Transmitted herewith is the Reply Brief with respect to the Examiner's Answer mailed on December 11, 2008.

This Reply Brief is being filed pursuant to 37 CFR 1.193(b) within two months of the date of the Examiner's Answer.

(Note: Extensions of time are not allowed under 37 CFR 1.136(a))

(Note: Failure to file a Reply Brief will result in dismissal of the Appeal as to the claims made subject to an expressly stated new ground rejection.)

No fee is required for filing of this Reply Brief.

If any fees are required please charge Deposit Account 08-2025.

Respectfully submitted,

Seiw-Hong YANG-HUFFMAN et al.

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PATENT

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MAIL STOP APPEAL BRIEF - PATENTS

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REPLY BRIEF - PATENTS

Sir:

The Appellants respectfully submit this Reply Brief in response to the Examiner's Answer mailed on December 11, 2008, and thus, this Reply Brief is timely filed within two months of the Examiner's Answer.

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(1) Grounds of Rejection in the Examiner's Answer is Incorrect

The Grounds of Rejection in the Examiner's Answer incorrectly included (1) a rejection of claim 24 under 35 U.S.C. §101, and (2) a rejection of claim 24 under 35 U.S.C. §112, second paragraph. The Advisory Action mailed September 23, 2008, indicated the Amendment After Final filed February 21, 2008, was entered, and the rejections of claim 24 under 35 U.S.C. §101 and 35 U.S.C. §112, were overcome by the amendments. Accordingly, if the Examiner is reinstating these rejections, these rejections are considered New Grounds of Rejections, and prosecution is requested to be re-opened.

Many of the remarks presented below are in response to the “Response to Arguments” section of the Examiner’s Answer starting on page 12. The remarks below may not address all the Examiner’s arguments presented in the Examiner’s Answer, because the Appeal Brief adequately addresses those arguments.

(2) Arguments

A. See fails to teach polling a subset of network nodes of claims 1 and 20

Claim 1 recites, “at least one collector operable to poll a subset of network nodes requiring monitoring according to the collection configuration information.” Claim 20 recites, “means for polling the subset of network nodes” These features are not taught by See.

On page 12 of the Examiner’s Answer, the Examiner asserts these features are taught in paragraphs 11-12 and 25-27 of See. Paragraph 12 discloses periodically polling for local resource properties. However, this polling is performed internally in the managed network devices (MNDs) by their LRMs. Figure 1 shows the LRMs 210 and 211 internal to the MNDs 203 and 204. Thus, the polling is not performed by a collector collecting information from a subset of network nodes. Instead, the polling is performed internally in each network device.

Paragraphs 25-27 also do not teach polling. Instead, the network devices of See, *i.e.*, the MNDs, unilaterally upload their data to a central data store CDS 208. Then, the NMS 202 retrieves the data from the CDS 208, so no polling and no series of message exchanges need be performed between the NMS 202 and the MNDs.

The Examiner asserts that See does not teach away from polling but instead minimizes the polling that needs to be done by the NMS. This assertion by the Examiner is erroneous, because See specifically states in paragraph 26 that instead of a series of message exchanges, the MNDs automatically and unilaterally send their data to the central data store, CDS 208. Paragraph 26 further states that the preferred embodiment relieves the NMS 202 of the burden of polling the network devices. Thus, See does not disclose minimizing polling. Instead, See teaches away and does not disclose a collector polling network devices.

B. See fails to teach the data collector of claim 1

Page 13 of the Examiner's Answer asserts the LRM is the data collector. However, the LRM does not receive data from multiple network devices. Instead, the LRM is internal to the network device and only collects data for its network device.

C. Conrad fails to teach the network topology information of independent claim 10

On page 14, the Examiner asserts the claimed network topology is the information for assessing the maintenance of the network in Conrad. Column 5, line 11 of Conrad simply states, "The self-monitoring data collection module 230 may be configured to retrieve information at scheduled times, e.g., a data collection event, from remote network devices to assist in the maintenance of a network." Conrad does not disclose explicitly or inherently and does not imply the collected information is network topology information. The collected information may identify failed network devices, but Conrad does not disclose the information includes the

network topology. Thus Conrad fails to teach, “receiving network topology information indicating a list of network nodes to monitor,” and “generating collection configuration information in response to the network topology” as recited in claim 10. Furthermore, the information collected to assist in maintenance in Conrad cannot be used to generate collection configuration information, because that information has already been collected and is now being used to assist in maintenance.

D. Fairfield fails to teach accessing a collection policy of independent claim 24

Claim 24 recites, “accessing a collection policy specifying a criteria for collecting data from a plurality of network nodes.” Fairfield discloses logically grouping nodes in column 10, lines 1-12. However, Fairfield fails to teach a collection policy is accessed to determine criteria for collecting data. Fairfield does not teach the logically groupings are determined by accessing a collection policy. No accessible collection policy for determining collection criteria is disclosed in Fairfield.

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(3) Conclusion

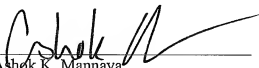
For at least the reasons given above, the rejection of claims 1-30 should be reversed. The Appellants therefore respectfully request that the Board of Patent Appeals and Interferences reverse the Examiner's decision rejecting claims 1-30 and to direct the Examiner to pass the case to issue.

Please grant any required extensions of time and charge any fees due in connection with this Appeal Brief to deposit account no. 08-2025.

Respectfully submitted,

Dated: February 11, 2009

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